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MEMO ENDORSED

THE CITY OF NEW YORK
LAW DEPARTMENT
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December 8, 2010

BY HAND
Honorable Leonard B. Sand
United States District Judge
United States Courthouse
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Toya Foy v. City of New York, et al.
10 CV 08553 (LBS)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendant City of New York ("City"). I write to respectfully request a sixty-day enlargement of time nun pro tunc from December 3, 2010 until February 3, 2011, for defendant City to answer or otherwise respond to the complaint. Plaintiff's counsel, Gabriel Harvis, Esq., consents to this request on the condition that defendant make its 26(a)(1)(A)(i) initial disclosures at or before the time the answer is due which the undersigned has agreed to. This is the first request for an enlargement of time. We apologize to the Court that this request is six days past due.

I note for the Court's information that, according to the civil docket sheet, there were summons issued for the individually named defendants in this action, Captain Glisman, William Coakley, Detective Campbell, Officer Gonzalez, Gerald McCoy, Officer Lolja, Officer Lopez, Captain Urprasad, and Officer Williamson, on November 12, 2010, but the docket does not reflect whether service has been effected on those individual defendants. A decision concerning this Office's representation of the individual defendants has not yet been made and, accordingly, this request for an extension of time is not made on their behalf. However, given the time involved in determining the representation of police officers, and in the interest of judicial economy, we would hope that the court may, *sua sponte*, extend the time to answer on behalf of all defendants.

MEMO ENDORSED

In the complaint, plaintiff alleges, *inter alia*, that on October 10, 2009, she was taken into custody and arrested by NYPD officers for assault and on October 26, 2009, she was arrested by NYPD officers for violating an order of protection. There are several reasons for seeking an enlargement of time. First, in accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. As the complaint indicates the October 26, 2009 case against the Plaintiff was declined to prosecute by the District Attorney's Office[1], this office will be forwarding to plaintiff for execution a consent to the designation of the Corporation Counsel as plaintiff's agent for release of records sealed pursuant to New York Criminal Procedure Law §160.50. Pursuant to that statute, all official records concerning plaintiff's arrest and/or prosecution, including police records, are sealed. Moreover, this office cannot obtain the records, including documentation confirming any arrest, without the designation and release, and without the records, we cannot properly assess this case or respond to the complaint.

No previous request for an extension has been made by either party. Accordingly, we respectfully request that defendant City's time to answer or otherwise respond to the complaint be extended from December 3, 2010 until February 3, 2011.

Thank you for your consideration of this request.

Respectfully submitted,

Kimberly M. Savino
Assistant Corporation Counsel

cc: Gabriel Paul Harvis, Esq. (by fax)
Attorney for Plaintiff
Harvis & Saleem LLP
305 Broadway, 14th Floor
New York, NY 10007

Granted as requested
So ordered
L. Sand
USDJ
12/13/10

MEMO ENDORSED

[1] The complaint does not contain the outcome of Plaintiff's October 10, 2009 arrest.